Remarks

The following numbered paragraphs are provided to respond to the similarly numbered paragraphs in the Office Action (e.g., paragraph "1" below corresponds to paragraph 1 in the Office Action.

1. The Office Action rejected each of claims 1, 2 and 17 as anticipated by O'Brien. Applicant strongly disagrees with the rejection of claim 2 as anticipated by O'Brien and has amended claim 1 to not include the limitations of original claim 2 and has amended claim 17 to now depend from claim 1. Thus, amended claim 1 now requires that a processor receive specifying information from a memory device on a container, use the received specifying information to determine a time to take a medication in the container and provide an indication via a communication device at the time when the medication is to be taken.

While O'Brien teaches reading an RF ID tag or the like, O'Brien fails to teach that information from the RF ID tag is used to identify a predetermined time to take a medication or providing an indication that a medication is to be taken at a time prescribed by the RF ID tag information. To this end, O'Brien teaches that when a medication is dispensed at a pharmacy, the pharmacist generates a prescription label to be affixed to a vial that includes a patient specific bar code and, presumably, text that can be read by the patient that specifies the prescription. In addition, the label or vial includes a bar code or RF ID tag that contains the patient's name and a unique prescription number (see col. 9, lines 36-46). Other prescription information is stored in a pharmacist's database and is transferred to a central Customer Service Center (see col. 9, line 57 – col. 10, line 37).

Continuing, O'Brien teaches that the Customer Service Center contacts the patient (i.e., the person to consume the medication) and obtains additional information that is, in essence, a duplicate of the information obtained from the pharmacist's database (see col. 10, line 38 – col. 11, line 2). The pharmacist's data is compared to

the patient provided data and if they match, a process is set up for reminding the patient to consume the medication at times indicated in the information stored at the Customer Service Center (see col. 11, lines 2-21). Thereafter, when a medication is to be consumed, the Customer Service Center sends a warning message to the patient via a phone line or the like and a cable set top box or the like that the medication is to be consumed (see col. 6, lines 35-45). When the warning is received, the patient obtains the vial that stores the medication and holds the vial up to an RF or bar code reader so that the prescription number can be obtained there from (see col. 6, lines 35-45). The prescription number is provided to the Customer Service Center via a phone line or the like and is compared to the prescription that caused the warning message to be generated. If the prescription information is a match, the Customer Service Center stores a record that the medication has been consumed. If the prescription information does not match, the Service Center provides immediate notice to the patient that the medication should not be consumed (see col. 6, lines 46-49).

Thus, in O'Brien, the warning to consume a medication is generated prior to reading of the RF ID or bar code information and therefore cannot be generated as a function of information obtained from the tag as required by amended claim 1. In O'Brien, instead of using the RF ID or bar code information to identify a time at which a medication is to be consumed, the RF ID or bar code information is simply used to identify medication type (i.e., in O'Brien, when to consume a medication is solely based on information stored at the Customer Service Center). For at least this reason amended claim 1 and claims that depend there from are clearly novel over O'Brien.

2. The Office Action rejected each of claims 4, 5, 7-10, 27-29 and 33 as anticipated by Yarin. Application has amended claim 7 to now depend directly from claim 1. Claim 7 requires that the surface associated with the processor include an aligner for aligning the container with a portion of the surface. To this end, see Figs. 12 through 17 of US patent No. 6,259,654 that teach aligner components (i.e., the upward

extending section of 280 in Figs. 12, 14 and 15 and the downward extending piece 372 in Figs. 16 and 17) for aligning associated containers with surface portions. Thus, the '654 parent application does support the amended claim 7 limitations and Yarin is removed as a reference to claim 7.

With respect to claim 8, claim 8 requires that the aligner of claim 7 include indicia on the sensing surface. Indicia here includes writing, a colored shape, etc., on the surface that can be used for alignment purposes. Yarin fails to teach indicia on a sensor surface. To this end, Yarin's Fig. 11 teaches deep recesses for receiving vials – recesses of the magnitude in Fig. 11 that can substantially limit lateral movement of received vials are not "indicia" as required by claim 7. Yarin's Fig. 13 includes a large vial supporting surface where vials can be placed anywhere and where there are no distinctive marks that distinguish one surface location form another. Thus, the claim 8 limitations are novel and non-obvious over Yarin. Each of claims 10 and 11 depend from claim 8 and therefore are distinct over Yarin. In addition, claim 4 has been amended to now depend from claim 8 and avoids Yarin for the reason that claim 8 avoids Yarin.

Claim 27 has been amended to delete the horizontal surface limitation and to make that claim depend directly from claim 22. The remaining limitations in claim 27 are supported by parent US patent No. 6,259,654. To this end, the embodiment shown in Figs. 31 through 34 includes sensors 940 mounted in a wall 918 where the sensor surfaces have a different appearance than other non-sensing portions of wall 918. Thus, Yarin does not predate amended claim 27 and should be withdrawn as a reference to that claim.

Claim 28 depends form claim 27 and requires, among other things, that the aligners of claim 27 include indicia on the sensing surface. As in claim 8 discussed above, here, Yarin fails to teach or suggest "indicia" on a sensor surface for guiding placement of containers and for this reason claim 28 and claims that depend there from

are novel over Yarin. Claim 33 has been amended to depend from claim 28 and therefore is novel for the same reason that claim 28 is novel over Yarin.

3-4. The Office Action indicates that Glynn is a proper reference in this case. Applicant is a bit confused as Applicant has never argued that Glynn was an improper reference (indeed Glynn dates back to 4-19-96 which predates even the parent patent to this application by some time). Applicant believes that Examiner intended to indicate that Yarin is a proper reference and proceeds below based on that assumption. Yarin is discussed above and therefore is not discussed again hereafter.

5. The Office Action rejected claim 107 as anticipated by Glynn. Claim 107 has been amended to now require that the specifying information (i.e., the information usable to determine a prescribed dosing regimen for a medication) be obtained directly from the specifying device.

Glynn fails to teach or suggest that specifying information is received from a device or the like that is mounted to a container. Instead, Glynn teaches that a system user has to manually enter prescription information into a system which is then correlated with a specific container. To this end, see Glynn's col. 4, lines 39-48, where Glynn teaches that medication container identity can be initialized by placing a container including a bar code on the bottom thereof on a tray. When a sensor senses that a container has been placed on the tray (i.e., via a weight change of the face of the tray), the tray is scanned and the bar code read. When a new bar code is recognized, the system prompts the user to manually enter prescription information which is then stored for the container.

Subsequent to the initiation process above, two system functions described by Glynn include (1) providing notice that medication should be consumed as a function of the manually entered prescription information (see col. 5, lines 27-32) and (2) store information tracking the schedule of medications removed from the tray (see col. 4, line

57 through col. 5, line 26). Neither of these two features requires reading prescription information from a bar code or other contain mounted device.

Thus, Glynn teaches manual entry of prescription information instead of receiving such information from a container mounted specifying device. For at least this reason Applicant believes claim 107 and dependent claim 108 are distinct over Glynn and requests that the rejection be withdrawn.

The Office Action rejected each of claims 15 and 22 as obvious over Glynn in view of O'Brien. Applicant traverses this rejection. Referring specifically to claim 15, claim 15 requires, among other things, retrieving specifying information from at least two specifying devices where the specifying information is usable to determine a prescribed dosing regimen for a medication. As described above, Glynn fails to teach obtaining specifying information (i.e., prescribed dosing information) from devices and instead requires manual entry of prescription information (see again Glynn's col. 4, lines 36-49). Thus, Glynn is directly contrary to the claim 15 limitations that require obtaining specifying information from container devices.

O'Brien teaches a system wherein a warning is provided to a patient to take a medication where, when a warning is provided, the user is prompted to retrieve a medication vial and hold the vial up to a bar code or RF ID reader so that medicant identity can be determined. The identity of the medication in the vial is compared to the medication that the patient is supposed to consume pursuant to the warning and, when the medicant in the vial does not match the medicant to be consumed, a warning is provided. Thus, O'Brien also fails to teach reading prescription information from a vial device. Instead, in O'Brien, the prescription information is already stored for medications in the warning system and the only information obtained from the vial device is the identity of the medication in the vial.

Moreover, even if O'Brien were somehow construed as teaching a system wherein prescription information is read from a vial device, the purpose of obtaining vial

device information is to compare that information to already known prescription information. In this type of system it would make no sense to hold two or more medications to a code reader simultaneously as an error would always occur. For example, where two vials are held up to the reader at the same time, one of the vials would include information that does not match the prescription information associated with the warning and an error would always occur.

For at least these reasons Applicant believes that claim 15 is novel and non-obvious over Glynn in view of O'Brien and requests that this rejection be withdrawn.

Claim 22 has been amended to require, among other things, that the processor receives specifying information from multiple specifying devices. Applicant believes amended claim 22 is non-obvious over the cited art for the reasons discussed above with respect to claim 15 and requests that the rejection be withdrawn.

Applicant has introduced no new matter in making the above amendments and antecedent basis exists in the specification and claims as originally filed for each amendment. In view of the above amendments and remarks, Applicant believes claims 1, 4, 5, 7-10, 15, 17, 22-29, 33, 36 and 107-108 of the present application recite patentable subject matter and allowance of the same is requested.

In addition, Applicant believes that at least some of the originally filed claims in this application are generic to several of the embodiments and that at least some of those generic claims are allowable over the art of record as at least some of the species covered by the generic claims are supported by the parent specification that predates Yarin. Here, Applicant requests that if the Examiner determines that at least some of the claims are generic and allowable over the art considered by the Examiner, that the Examiner reinstate any withdrawn claims that are covered by the generic claims.

No fee in addition to the fees already authorized in this and accompanying documentation is believed to be required to enter this amendment, however, if an additional fee is required, please charge Deposit Account No. 17-0055 in the amount of the fee.

Respectfully submitted,

CARLOS DE LA HUERGA

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